

**SECOND AMENDMENT TO SEWAGE TREATMENT AGREEMENT BETWEEN
DAKOTA DUNES COMMUNITY IMPROVEMENT DISTRICT AND
CITY OF SIOUX CITY, IOWA**

This Agreement is made and entered into by and between Dakota Dunes Community Improvement District, a local governmental entity under SDCL§7-25A (hereinafter referred to as "Dunes") and the City of Sioux City, Iowa, a municipal corporation (hereinafter referred to as "City").

RECITALS:

WHEREAS, the City and Dunes did on December 3, 1990, enter into a Sewage Treatment Agreement to provide for the collection and treatment of the sanitary sewer originating in the Dunes, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the City and Dunes did on April 12, 1993, enter into a First Amendment to the Sewage Treatment Agreement to amend the term of the agreement, a copy of which is attached hereto as Exhibit B; and

WHEREAS, the City and Dunes desire to enter into a Second Amendment the Sewage Treatment Agreement as set forth herein.

NOW, THEREFORE, in consideration of the premises and agreements herein contained, it is mutually agreed as follows:

- 1.) Paragraph 2 of the Sewage Treatment Agreement is hereby replaced in its entirety and amended to read as follows:
 2. *"Outside Improvement District User Rate" shall mean that rate charged to the Dunes for each one thousand (1,000) gallons of normal strength domestic sewage received from the Dunes that is treated by the City, and the Dunes shall be treated similarly to "outside municipalities" as that term is defined under City Ordinance section 13.08.020 subject to the terms of section 13(a) below.*
- 2.) Paragraph 13(a) of the Sewage Treatment Agreement is hereby replaced in its entirety and amended to read as follows:
 - 13(a). *The rate charged to the Dunes by the City for sewage treatment, effective retroactively as of July 17, 2006, shall be \$2.25 per flow unit and shall remain at such rate until the outside municipalities (Sergeant Bluff, Iowa, North Sioux City, South Dakota, and South Sioux City, Nebraska) are equal to or exceed said rate. Thereafter, the Dunes shall have identical rate increases or decreases as said municipalities. Further, such rates shall be reviewed annually in accordance with paragraph 13.08.100 of the City User Charge Ordinance and adjusted accordingly. Before any adjustments and rates may be made pursuant to this paragraph, the City shall notify the Dunes, of its intention to review the Sewer User Charge plan and rate schedule at a time, usually sixty (60) days prior to final City Council action. Written notice must be given to the Dunes along with cost data supporting the change*

recommended by the City staff, at least thirty (30) days prior to intended actions. The Dunes shall have the right to protest any proposed increases to the City Council. The Dunes shall pay for its sewage treatment on the basis of monthly bill payable twenty-one (21) days after the receipt of each bill from City.

13(b) In addition to the Outside Improvement District User Rate, the Dunes agree to pay a meter reading and billing charge of \$50.00 per month. This charge will constitute a minimum bill.

3. In all other respects, the Sewage Treatment Agreement and the First Amendment thereto shall remain in full force and effect.
4. This Second Amendment to Sewage Treatment Agreement is subject to the approval of the Iowa Attorney General, the South Dakota Department of Water and Natural Resources, and the Iowa Department of Natural Resources.
5. Pursuant to Chapter 28E of the Code of Iowa, this Second Amendment shall be in force and effect from and after the time it is executed by the authorized representatives of the parties hereto, approved by the state officer or agency with power of control over services or facilities involved herein, approved by the Attorney General of Iowa, filed in the office of the Secretary of State of Iowa and recorded with the Woodbury County Recorder, State of Iowa.

IN WITNESS WHEREOF, the Dunes have caused these presents to be executed in its name by its Chairman and attested by its Secretary, all pursuant to Resolution duly adopted by its Board of Supervisors at a meeting held on the 21st day of May, 2007; and the City has caused these presents to be executed in its name by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, all pursuant to Resolution No. 2007-000408, duly adopted by its City Council at a meeting held on the 14th day of May, 2007.

City of Sioux City Iowa

By:

Craig S. Berenstein

Craig S. Berenstein
Mayor

By:

Ronald Prosek
Dakota Dunes
Community Improvement District

Title:

Chairman

Attest:

By:

Lisa L. McCardle

Lisa L. McCardle
City Clerk

Attest:

By:

Kim Hoffman

Title:

Secretary